

ENTERED

August 29, 2025

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KEVIN FRYMIER,	§	CIVIL ACTION NO
Plaintiff,	§	4:25-cv-00442
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
AID TO VICTIMS OF	§	
DOMESTIC ABUSE AND	§	
BARBARA STALDER,	§	
Defendants.	§	

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

Plaintiff Kevin Frymier proceeds here *pro se*. He filed a complaint for due process violations under 42 USC §1983, civil conspiracy under 42 USC §1985(3), breach of fiduciary duty, negligent supervision, and “ethical conflict and retaliation” against Defendants Aid to Victims of Domestic Abuse (AVDA) and Barbara Stalder. Dkt 11 at 5–10. He seeks compensatory damages, punitive damages, attorneys’ fees, and costs. Id at 10. The title of his complaint also indicates that he seeks injunctive relief, although the complaint doesn’t otherwise specify the nature of such relief. See Dkt 11 at 1 (title).

AVDA filed a motion to dismiss under Rule 12(b)(6) arguing that Plaintiff’s claims under §§1983 and 1985(3) for alleged violations of the First, Fifth and Fourteenth Amendments fail because it isn’t a state actor. Dkt 19 at 4–8; see also Dkt 16 (original motion filed in error). It further argues that the claims for breach of fiduciary duty and negligent supervision must be dismissed for failure to plead sufficient facts. Dkt 19 at 8–11. And it argues that Plaintiff’s “conflict of interest” claim isn’t a cognizable

cause of action under Texas law. Id at 11. Stalder also filed a motion to dismiss, asserting that (i) the civil conspiracy claim fails because no agreement to commit an unlawful act is pleaded, (ii) the constitutional claims under §§1983 and 1985(3) fail because she isn't a state actor, (iii) the facts are insufficiently pleaded as to breach of fiduciary duty and negligent supervision, and (iv) "conflict of interest" isn't a recognized cause of action. Dkt 10 at 2–4.

The matter was referred for disposition to Magistrate Judge Yvonne Ho. Dkt 7. She issued a Memorandum and Recommendation on May 13, 2025, in which she recommended that the pending motions to dismiss by AVDA and Stalder to be granted. Dkt 24. In sum, she concluded that no cognizable claim was stated (i) under §1983, because there is no allegation that either AVDA or Stalder was a state actor, (ii) under §1985(3), because there is again no allegation as to a state actor, along with absence of allegation as to racial animus, (iii) as to breach of fiduciary duty, because no authority states that a judge owes a fiduciary duty to litigants, (iv) as to negligent supervision, because no actionable, underlying tort is alleged as committed by Stalder, and (v) as to conflict of interest and retaliation, because such are not standalone claims.

The district court reviews *de novo* those conclusions of a magistrate judge to which a party has specifically objected. See FRCP 72(b)(3) & 28 USC § 636(b)(1)(C); see also *United States v Wilson*, 864 F2d 1219, 1221 (5th Cir 1989, *per curiam*). The district court may accept any other portions to which there's no objection if satisfied that no clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F3d 303, 308 (5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F3d 1415, 1430 (5th Cir 1996, *en banc*); see also FRCP 72(b) advisory committee note (1983).

Plaintiff filed an objection. Dkt 26. Upon *de novo* review, no error appears on any asserted point. The Memorandum and Recommendation is clear, thorough, and reasoned, while addressing all arguments raised or

properly at issue. And no clear error otherwise appears upon review and consideration of the Memorandum and Recommendation, the record, and the applicable law.

The objection filed by Plaintiff Kevin Frymier to the Memorandum and Recommendation of the Magistrate Judge is OVERRULED. Dkt 26.

The Memorandum and Recommendation of the Magistrate Judge is ADOPTED as the Memorandum and Order of this Court. Dkt 24.

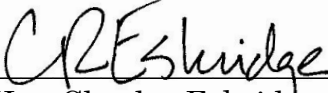
The motions to dismiss by Defendants Aid to Victims of Domestic Abuse and Barbara Stalder is GRANTED. Dkts 10 & 19.

This action is DISMISSED WITH PREJUDICE.

A final judgment will enter separately.

SO ORDERED.

Signed on August 29, 2025, at Houston, Texas.



Hon Charles Eskridge
United States District Judge